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Dated: June 1, 2009

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Docket No.: 59439(70904)
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Takashi Imai et al.

Application No.: 10/603,721

Confirmation No.: 3344

Filed: June 24, 2003

Art Unit: 2179

For: USER INTERFACING DISPLAY
APPARATUS AND IMAGE FORMING
APPARATUS

Examiner: S. K. Becker

REPLY BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Introductory Comments

This brief is filed in accordance with 37 CFR 41.41 in response to the Examiner's Answer mailed March 31, 2009. This brief is being filed within two months of the Answer (May 31, 2009 being a Sunday).

This brief contains items under the following headings as required by 37 C.F.R. § 41.41:

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III. Statement of Additional Facts

None.

IV. Argument

The Examiner agrees with Applicants' recitation of the status of the case, the claims on appeal, and grounds of rejection to be reviewed and the evidence at issue.

For her grounds of rejection, pages 3-10 of the Answer, the Examiner repeats her final rejection, except that underlining in the Final Office Action is not used in the first bullet point, page 4, middle, of the Answer. There are no new grounds of rejection. Applicants' Appeal Brief presents their response to these grounds.

New arguments by the Examiner are detailed in part (10) of "Response to Argument," on pages 10-18 of the Answer. Applicants take up these Responses in order.

1. Examiner's Response, page 10, lines 7 to page 11, line 12

The Examiner first addresses Applicants' argument on page 7, line 2-6 of the Appeal Brief that Beaudet does not teach "detail settings in a pop-up display together with an interrupt key." She argues that the subject matter of this statement is not found in the claims, and then argues that this feature is found in the secondary reference to Tezuka, and does not need to be found in Beaudet.

As to the first point, an argument does not need to be made only in the exact words of the claim.

Second, independent claims 1, 16 and 17, and therefore all the pending claims, were amended to make it explicit that the "display control means" 1) pops up a display of the detail settings when the associated detail key is set, and 2) changes the display state of the interruption key, "while keeping the interruption key displayed on the display section." It is therefore very clear that detail setting is done in a pop-up display while an interruption key is also displayed, "together with" the pop-up display. The correct relationship between Applicants' detail setting display and the displayed interruption key

is also described in the Appeal Brief at least at page 4, lines 18-29; page 5, lines 2-4; and page 9, lines 7-11.

While citing Tezuka, the Examiner does not address Applicants' argument against Tezuka beginning at page 9, last two lines, and continuing to page 16 (including legal arguments). The Examiner merely argues in a conclusory manner that because Tezuka uses an illuminated key that is visible in different ways corresponding to certain system parameters, it is "obvious" to "modify the method and apparatus of Beaudet to include the teachings of Tezuka in order to change display states of key." The Examiner again cites Col. 64, line 53 to Col. 65, line 25 in Tezuka (related to Figs. 99-105) to provide "motivation" to combine Tezuka and Beaudet. These statements only repeat the final Action rejection.

2. Examiner's Response, page 11, line 13 to page 12, line 3

The Examiner next cites page 9, lines 7-8 and page 11, lines 16-19 to argue that the complete disappearance of an interrupt key in Beaudet is equivalent to Applicants' claimed "change of state" of the displayed interrupt key.

The Examiner cites Beaudet Fig. 4D and 4E as showing a soft "Interrupt Print Job" key that causes the Beaudet programming to generate other displays that do not show this key. As Applicants have noted, they claim a change of state expressly limited to the situation where the interrupt key remains displayed.

The Examiner argues further that in Beaudet "[s]etting up a copy job is an election of a detail setting key which is one of a plurality of jobs (i.e. a number of printing or copying jobs in queue." This is not correct.

Screen 4E has no interrupt key. It displays automatically in running the copy job set up routine shown in Fig. 3E of Beaudet.

Screens 4C and 4D include an active soft interrupt key. They are displayed as part of the print routine shown in Fig. 3B. This is not a “copy” routine, and there is not “copy set up” associated with either screen 4C or 4D or the interrupt key displayed on those screens. If the Interrupt Print Job key in screens 4C or 4D is pressed, the flow chart in Fig. 3B shows a progression of screens through two logic paths both terminating at “D,” the input to a “daytime” copy routine shown in Fig. 3D. There is no interrupt key shown or used in this Fig. 3D copy routine.

In short, pressing the Beaudet interrupt key in either screen 4C or 4D does not lead to any copy set up, or to any detail setting or pop up in connection with detail setting for any job.

Moreover, even if one looks to the copy setting described in Beaudet (the software routine of Fig. 3E and screens 4E, 4F1, 4F2 and 4H), 1) none of these screens functions, whether as a pop-up on a GUI or otherwise, displays a detail setting key “for performing detail setting of a job as to what a user selects,” as claimed, whereby 2) an action taken by interacting with any of these screens changes the state of any interrupt key (whether a true change of state as described and claimed in the present application, or even a disappearance of an interrupt button that had been co-displayed).

As Applicants stated in their Appeal Brief, the Beaudet screens are sequential as part of the logical, sequential routine of the program illustrated in Fig. 3. No detail setting, for any copy or any print job, changes the state of any interrupt key.

In this part of the Answer, the Examiner quotes comments from the Appeals Brief relating to Tezuka, but does not discuss Tezuka to rebut the Appeal Brief.

3. Examiner’s Response, page 12, line 4 to page 13, line 10

The Examiner next quotes page 10, lines 2-7 of the Brief on page 12 of the Answer arguing that Tezuka’s network integrated construction system is a sufficiently

analogous art that it can be combined with the Beaudet printer/copier, and then argues backwardly from the prior art to the invention, arguing that it would be “obvious” to reach the claimed invention given the teachings of these references and the Tezuka Col. 64, line 52 to Col. 65, line 25 “motivation.”

Applicants disagree that the Tezuka disclosure for a network integration system is an analogous art to the present invention directed to controlling confusion in displays of an electronic apparatus such as a copier where there are detail settings displayed in plural jobs. Moreover, Tezuka merely teaches a key that changes its display to reflect associated network parameters. Combining this with Beaudet, where an interrupt key disappears and there is no problem of operator confusion in associating a display with a job, is “obvious” only in the hindsight of the present claimed invention. *KSR Int’l Co. v. Teleflex, Inc.*, 127 S.Ct. 1727, 82 USPQ2d 1385 (2007); *Innogenetics, NV v. Abbott Labs*, 112 F.3d 1363 (Fed.Cir. 2008); *Pfizer, Inc. v. Apotex, Inc.*, 480 F.3d 1348, 82 USPQ 2d 1321 (Fed. Cir. 2007). See also the argument relying on these cases in the Appeal Brief, pp. 12-14.

4. Examiner’s Response, page 13, line 11 to page 14, line 5

The Examiner next quotes page 10, line 15-19 regarding Applicants’ third argument against Tezuka. The Examiner is correct that activation of an interrupt key in the present invention itself does not initiate a pop up of detail settings for a different copy job. To clarify, the invention contemplates a change of state of the interrupt key if 1) the interrupt key has been pressed and 2) a detail setting key is pressed. Moreover, the Examiner does correctly quote the language of the claims, and she returns to the “Fig. 4D-Fig. 4E” argument discussed above, citing Beaudet, not Tezuka as quoted from the Appeal Brief. Applicants claims are a correct statement of the invention and the arguments of record, and hereinabove, with respect to both Beaudet and Tezuka remain valid.

5. Examiner's Response, page 14, lines 6 to 15

On page 14 of the Answer, the Examiner quotes page 12, lines 8-9 of the Appeal Brief and argues that because Applicants mention pop-up 67 in Fig. 1 as an example of what is claimed, they are, somehow, limited to that example, and a pop-up display must overlies another display. We agree with the Examiner that the claims are not limited to such overlying displays. However, claim language must be interpreted first by 1) ordinary and customary meaning of a claim term to a person of ordinary skill in the art in question and then 2) the specification. *Phillips v. AWH Corp.*, 415 F.3d 1303, 75 USPQ2d 1321 (Fed. Cir. 2005).

Here, the specification describes a pop-up display for setting the details of a copy function for one of several jobs. The pop-up display is on a GUI. It includes active keys. Selection of that pop-up display changes the state of a displayed interrupt key.

Beaudet describes no such pop-up display. As noted above, the only place in the Beaudet flow chart (Fig. 3) with a reference to anything like detail setting is in the sub-routine shown in Fig. 3E (where the printer copier is not in the copy job lock-out mode ("CJLM"), e.g., in operating in daytime business hours). The Beaudet apparatus in this sub-routine is 1) available to print or copy jobs, 2) a printer has been requested (Fig. 3A, step 250), and 3) the program therefore goes to the Fig. 3B sub-routine for the print mode. While in the print mode, screens 4C and 4D allow interruption of the "daytime" printing. Both interruption of the printing (Yes at step 340 and step 370) lead to the sub-routine X of Fig. 3F at "D" a part of the sub-routine of Fig. 3E. In turn, the sub-routine of Fig. 3E contemplates a "copy job set up."

Even if one takes "copy job set up" as the equivalent of Applicants' "detail setting" (which Applicants do not concede), no screen referenced in Fig. 3E sets up the copy job details, and no activation of any soft key in Fig. 3E has any affect on any interrupt key. The screen of Fig. 4E is part of the Fig. 3E subroutine, but no interrupt key is displayed in Fig. 4E, or elsewhere. Pressing the "copy job set up" key only continues the copy program (screens 4F1, 4F2, and 4H).

The screen 4H does display the word "Interrupt." However, this display is simply part of a status message, "Job Interrupt." Applicants find no description or figures that teach this part of the Fig. 4H display is an active key area that causes some action to be executed. Similarly, the fact that the words "set up copy job" and "cancel copy job set up" are displayed in Figs. 4D and 4E does not make them a detail setting pop-up, as claimed.

Moreover, the whole point of Beaudet is to lead a user through a series of screens in a predetermined (Fig. 3) way. That order, and the on-screen information of Fig 4, prevents operator confusion as to what job relates to the displayed information. Therefore, the problem of operator confusion, which is the focus of the present invention, never arises in Beaudet.

In response to the Examiner's last sentence, the test is not whether the Examiner can imagine an interpretation of "popping up" that can be stretched to cover the prior art. The correct question is what the phrase means to a person of ordinary skill in the context of the present specification. *Phillips, supra*. The "popping up" shown and described in the present application is not found in or suggested by Beaudet.

6. Examiner's Response, page 14, line 16 to page 15, line 9

Next, the Examiner criticizes Applicants' argument on page 14, lines 8-16 regarding claim 2 regarding the de-activation of the interrupt key as well as its change of displayed state. Applicants argued against the Examiner's rejection that uses Figs. 4H-4K. The Examiner responds by citing Figs. 4D and 4E and her earlier argument regarding the disappearance of the interrupt key. This does not respond to Applicants argument. See above parts 2 and 5 for Applicants reply regarding Beaudet Figs. 4D and 4E.

7. Examiner's Response, page 15, line 10 to page 16, line 5

Regarding claim 3, the Examiner responds to Applicants' argument (Brief, page 14, lines 17-27) that Fig. 4H appears at the end of setting up a copy job, and an interrupt key is therefore "validated" by being on screen and selectable again.

First, screen 4H (Fig. 3E) is at the end of the copy set up sub-routine. It carries the operational flow to "D" (in Fig. 3D) at the start of "daytime" copy sub-routine. There is no interrupt key in the displays (Figs. 4B and 4J) of this Fig. 3D sub-routine. When a copy is done, the program carries one back to the Fig. 3A start point, which in turn carries one to the screen of Fig. 4K ("PRINTER READY") if the "nighttime" copy job lock out (CJLM) is on, or the screen of Fig. 4A ("COPIER PRINTER READY") if CJLM is not on. The Beaudet apparatus is in a "daytime" printer-or-copier mode of operation. This is not the invention defined by claim 3.

8. Examiner's Response, page 16, line 6 to page 18, line 15

Beginning on page 16 of the Answer, the Examiner addresses Applicants' arguments on the Section 103 rejections that use tertiary references to Sato, Hirayama, and Sadekuni to reject claims 7, 8, 10, 11 and 15.

For claims 7 and 8, and the Sato reference, the Examiner argues on pages 16 and 17 against Applicants' comments on page 17, lines 9-18 of the Appeal Brief. She argues that Sato teaches a lamp 13 that flashes when reception at a data buffer drive is interrupted using interrupt "button" 7. The Examiner assumes that the combination of references teaches "performing the popping up on the display section," and a display control that "switches over a lamp." Applicants find no display or display control in Sato. Applicants find no interrupt key in Sato that changes state in response to a detail setting key being selected. Nor do Applicants find any possibility of operator confusion between jobs in Sato or any of the prior art references. Still further, Applicants see no teaching, suggestion or motivation to combine references, as the Examiner has, without the hindsight benefit of the present disclosure. (See *KSR*, supra; *Innogenetics*, supra.; *Pfizer*, supra.)

With respect to Hirayama, and claims 10 and 11, on page 17 the Examiner cites page 18, lines 15-19 of the Appeal Brief. The Examiner argues against only whether Hirayama is relevant art that would be combined in the manner of the rejection. Hirayama deals with iterative processes to recognize a handwritten character. Applicants disagree that it, or Tezuka, "deal with printing/copying/scanning" as described and claimed in the present application. These references may all use graphical user interfaces with button that control an apparatus, but the present invention solves the problem of operator confusion when one display can relate to more than one job being run on a given apparatus. Moreover, Hirayama does not help to overcome the deficiencies of the primary and secondary references.

With respect to claim 15 and Sadekuni, the Examiner on page 18 cites and responds to the argument at page 19, lines 13-18 of the Appeal Brief. The Examiner's comments do not respond to Applicants' argument. They simply repeat the rejection and the Examiner's conclusion. For all of the reasons stated above, and in the record on appeal, Applicants respectfully disagree.

Applicants respectfully urge the withdrawal of the final rejections of the pending claims and the allowance of this application.

Dated: June 1, 2009

Respectfully submitted,

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